

SMITH et al.  
Appl. No. 09/963,396  
August 2, 2005

**REMARKS**

This is in response to the Office Action dated May 4, 2005. Claims 1-28, 30-33 and 36 are canceled. Only claims 29 and 34-35 are pending.

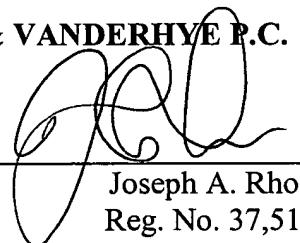
While applicant does not necessarily agree with the obviousness-type double patenting rejection over the '438 Patent, a terminal disclaimer has been filed herewith in order to render the rejection moot and expedite prosecution. This should place the application in condition for allowance, since no other rejections remain for the sole independent claim (claim 29).

If any minor matter remains to be resolved, the Examiner is invited to telephone the undersigned with regard to the same.

Respectfully submitted,

**NIXON & VANDERHYE P.C.**

By:



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